

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

IN RE:

CASE NO.

MARK JOSEPH COSTIN

04-04404-5-ATS

DEBTOR

ORDER DENYING MOTION FOR RELIEF FROM STAY

The matter before the court is the motion for relief from the automatic stay filed by Barbara Costin. A hearing took place in Raleigh, North Carolina on June 1, 2005.

Mark Joseph Costin filed a petition for relief under chapter 7 of the Bankruptcy Code on December 8, 2004. His former spouse, Barbara Costin, filed a motion for relief from the automatic stay to pursue, in state court, equitable distribution and other proceedings arising out of the marital relationship. The chapter 7 trustee opposed the motion to the extent the equitable distribution action may affect property of the estate. The debtor also opposed the motion, contending that this court should retain jurisdiction over the equitable distribution proceedings in conjunction with its consideration of Ms. Costin's § 523(a)(15) action.


The primary issue for the trustee is the estate's interest in business assets co-owned by the debtor and his brother. Mr. Costin's brother has filed a proof of claim related to his claimed share of the business assets, and the trustee will file an objection to the claim so

the court may determine the estate's interest in the assets. The trustee is to file that objection within 30 days of the date of this order.

Once the issues related to property of the bankruptcy estate are resolved, the court will revisit Ms. Costin's motion for relief from the stay and decide whether the equitable distribution action should be determined by this court or the state court. In the interim, however, the motion is **DENIED**.

**SO ORDERED.**

**DATED: June 2, 2005**

A handwritten signature in cursive script, appearing to read "A. Thomas Small", written over a horizontal line.

**A. Thomas Small**  
**United States Bankruptcy Judge**